

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
v.)	Civil Action No.: 1:19-cv-02465
)	
BALTIMORE COUNTY,)	
MARYLAND)	
)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff, the United States of America (“United States”), alleges:

1. This action is brought pursuant to 42 U.S.C. § 2000e-6(a) to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended (“Title VII”).
2. All conditions precedent to the filing of suit have been satisfied.

JURISDICTION AND VENUE

3. This Court has jurisdiction of this action under 42 U.S.C. § 2000e-6(b) and 28 U.S.C. §§ 1331, 1343(a)(3), and 1345.
4. Venue is proper in the United States District Court for the District of Maryland pursuant to 28 U.S.C. § 1391 because Defendant Baltimore County, Maryland (“Baltimore County”) and its agent, the Baltimore County Police Department (“BCPD”), are located in this judicial district and all or a substantial part of the acts or omissions giving rise to this cause of action took place in this judicial district.

PARTIES

5. Plaintiff is the United States of America.

6. Baltimore County is a governmental entity and/or political subdivision created pursuant to the laws of the state of Maryland.

7. Baltimore County is a “person” within the meaning of 42 U.S.C. § 2000e(a) and an “employer” within the meaning of 42 U.S.C. § 2000e(b).

STATEMENT OF FACTS

A. The Selection Process for BCPD Entry-Level Police Officers and Police Cadets

8. Baltimore County maintains the BCPD and, through it, employs police officers and police cadets who, among other things, are responsible for protecting individuals and property in Baltimore County.

9. Baltimore County is responsible for the recruitment and hiring of BCPD entry-level police officers and police cadets.

10. Baltimore County is responsible for establishing the terms, conditions, and other practices which bear upon the selection and employment of BCPD entry-level police officers and police cadets.

11. Baltimore County has administered and used a multiple-choice written examination in the screening and selection of applicants for hire into the BCPD entry-level police officer and police cadet positions.

12. Applicants for BCPD entry-level police officer and police cadet positions must successfully obtain a passing score on a multiple-choice written examination.

13. Applicants who fail the written exam are not eligible to continue in the BCPD multi-stage selection process and not hired as BCPD entry-level police officers or police cadets.

B. The Challenged Employment Practices

14. Since January 1, 2013, Baltimore County has administered and used at least three different versions of the written exam in the hiring process for BCPD entry-level police officer and police cadet positions. Each version was developed by the Office of Human Resources of the Baltimore County Government.

15. Baltimore County administered and used one version of the written exam from 2009 to 2013 (“2009 Exam”). The 2009 Exam consisted of 85 questions divided into components identified as reading comprehension (15 questions), vocabulary (15 questions), spelling (20 questions), grammar (15 questions), and logical order/sequencing (20 questions). Applicants who scored 75% or higher on the 2009 Exam were eligible to continue in BCPD’s selection process.

16. From 2009 to 2013, African American applicants passed the 2009 Exam at a lower rate than white applicants passed the 2009 Exam. This difference between the pass rates of white and African American applicants on the 2009 Exam is statistically significant.

17. Baltimore County administered and used a different version of the written exam in 2014 (“2014 Exam”). The 2014 Exam was 100 questions and comprised of two parts. Part I included a note-taking/observation skills section requiring a candidate to review a photograph and answer 15 questions about the photograph. Part II was 85 questions divided into components identified as reading comprehension (15 questions), logical ordering (20 questions), writing skill/grammar (30 questions), and interpretation of data (20 questions). Applicants who scored 70% or higher on the 2014 Exam were eligible to continue in BCPD’s selection process.

18. African American applicants passed the 2014 Exam at a lower rate than white applicants passed the 2014 Exam. This difference between the pass rates of white and African American applicants on the 2014 Exam is statistically significant.

19. Baltimore County began administering and using a different version of the written exam in 2015 (“2015 Exam”). The 2015 Exam is identical to the 2014 Exam except that Part I of the exam contains different questions and photographs; Part II of the exam is the same. Applicants who scored 70% or higher on the 2015 Exam were eligible to continue in BCPD’s selection process.

20. Between 2015 and 2016, African American applicants passed the 2015 Exam at a lower rate than white applicants passed the 2015 Exam. This difference between the pass rates of white and African American applicants on the 2015 Exam is statistically significant.

21. Upon information and belief, Baltimore County continued to administer the 2015 Exam, or a written examination substantially similar to the 2015 Exam, to applicants for BCPD entry-level police officer and police cadet positions after 2016.

22. Baltimore County’s use of each of these written examinations as a pass/fail screening device is not job related for the BCPD entry-level police officer and police cadet positions and consistent with business necessity, and does not otherwise meet the requirements of Section 703(k) of Title VII, 42 U.S.C. § 2000e-2(k).

23. As a result of its use of these written examinations, Baltimore County has hired fewer African American applicants as BCPD entry-level police officers and police cadets since January 1, 2013 than it would have had it used a non-discriminatory screening device.

UNITED STATES' PATTERN OR PRACTICE CLAIMS

24. Plaintiff United States re-alleges and incorporates herein by reference paragraphs 1-23.

25. Since January 1, 2013, Baltimore County has engaged in a pattern or practice of discrimination against African American applicants for BCPD entry-level police officer and police cadet positions in violation of Section 703(a)(2) of Title VII, 42 U.S.C. § 2000e-2(a)(2), by using the 2009, 2014, and 2015 Exams, which have caused a disparate impact on African American applicants on the basis of race, but which are not job-related for the positions in question and consistent with business necessity as required by Section 703(k) of Title VII, 42 U.S.C. § 2000e-2(k).

26. The United States, through the United States Department of Justice, has conducted an investigation of the policies and practices of Baltimore County with respect to its screening and selection of applicants for BCPD entry-level police officer and police cadet positions and the discriminatory effect of such practices on African American applicants. The Department of Justice notified Baltimore County of that investigation and of the United States' determination that the policies and practices outlined in paragraphs 8 through 23 are unlawful.

27. The Attorney General has reasonable cause to believe that the policies and practices of Baltimore County outlined in paragraphs 8 through 23 above constitute a pattern or practice of resistance to the full enjoyment by African Americans applicants of the rights protected by Title VII.

PRAYER FOR RELIEF

WHEREFORE, the United States prays that the Court order Defendant Baltimore County, and its officers, agents, employees, successors, and all persons in active concert or participation with them, to:

- a. refrain from using written examinations to screen and select applicants for BCPD entry-level police officer and police cadet positions where such use results in a disparate impact on African Americans, is not job-related for the position in question and consistent with business necessity, and does not otherwise meet the requirements of Section 703(k) of Title VII, 42 U.S.C. § 2000e-2(k);
- b. provide make whole remedial relief to all persons who have suffered individual loss as a result of the discrimination alleged in this Complaint; and
- c. adopt other appropriate nondiscriminatory measures to correct the present effects of its discriminatory policies and practices, including the use of entry-level police officer and police cadet selection procedures that comply with Title VII.

Plaintiff United States prays for such additional relief as justice may require, together with its costs and disbursements in this action.

Dated: August 27, 2019

Respectfully submitted,

ERIC S. DRIEBAND
Assistant Attorney General
Civil Rights Division

DELORA L. KENNEBREW
Chief
Employment Litigation Section
Civil Rights Division

/s/ Meredith Burrell

MEREDITH L. BURRELL (MD Bar, No Number Issued)
Deputy Chief

/s/ Kathleen Lawrence

/s/ Kunti Salazar

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Counsel for Plaintiff United States of America

Case 1:19-cv-02465-ADC Document 1-1 Filed 08/27/19 Page 1 of 1
CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kathleen Lawrence and Kunti Salazar, USDOJ, Civil Rights Division,
 Employment Litigation Section, 4 Constitution Square, 150 M Street
 NE/Rm 9-932 Washington D.C. 20002; (202) 616-9100

DEFENDANTS

Baltimore County, Maryland

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Michael E. Field, County Attorney and Gregory E. Gaskins, Deputy
 County Attorney, Baltimore County Office of Law
 400 Washington Ave. Towson, MD 21204; (410) 887-4420

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-6

Brief description of cause:

Pattern or Practice of Employment Discrimination

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/27/2019

SIGNATURE OF ATTORNEY OF RECORD


FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

____ District of _____

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____
_____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: